

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID L ERICKSON,

Plaintiff,

v.

SERGEANT LOPEZ et al.,

Defendants.

CASE NO. C11-5982-RJB-JRC

**ORDER DENYING MOTION AND
DIRECTING PLAINTIFF TO SHOW
CAUSE**

This 42 U.S.C. § 1983 civil rights action has been referred to the undersigned Magistrate

¹⁷ Judge pursuant to 28 U.S.C. §§ 636 (b)(1)(A) and (B) and Local Magistrate Judges Rules MJR 1,

18 MJR 3, AND MJR 4. Plaintiff has filed a motion asking the Court to stay this action while he

19 | exhausts state tort claim procedures (ECF No. 18). That motion is DENIED.

This is a federal civil rights action. Plaintiff alleges that his Eighth Amendment right to

21 be free from cruel and unusual punishment was violated when he was housed with an inmate

22 who had radically differing religious beliefs (ECF No. 17). Plaintiff alleges that he and his cell

23 mate asked that defendant Lopez separate them and that the defendant refused. He alleges that

1 there was later violence between he and his cell mate because of the religious differences and
2 that plaintiff was injured.

3 In an amended complaint, plaintiff adds his cell mate, William Oliver, as a defendant.
4 Plaintiff then asks that the court stay the action so that he can exhaust his state tort remedies
5 (ECF No. 17 and 18). The Court is not inclined to include a state tort claim against a party who is
6 not a proper party to the civil rights action. The passage of the Civil Rights Act was not intended
7 to federalize state tort law. McCarthy v. Mayo, 827 F.2d 1310, 1315 (9th Cir. 1987). While the
8 Court may have the ability to exercise supplemental jurisdiction over plaintiff's claim, the Court
9 does not see any judicial savings or judicial economy by doing so.

10 Plaintiff is ordered to show cause why defendant William Oliver and plaintiff's state tort
11 claims should not be dismissed from this action without prejudice. A response to this order to
12 show cause is due on April 6, 2012.

13 Dated this 2nd day of March, 2012.

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18 J. Richard Creatura
19 United States Magistrate Judge
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